HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 1375 of 2002

Date of Decision: 2.4.2007

Meena Kumari ……. Petitioner

Versus

HPSEB & others. …….. Respondents.

Coram:

The Hon'ble Mr. Justice Sanjay Karol, Judge.

Whether approved for reporting? Yes.

For the petitioner : Mr. I. D. Bali, Sr. Advocate with Mr. Digvijay Singh, Advocate.

For respondents 1 & 2 : Mr. Shrawan Dogra, Advocate.

For respondents 3 to 8 : None

Sanjay Karol, J. (Oral)

This judgment is being dictated in open Court in presence of the learned counsel for the parties.

Shri Partrap Singh, Assistant Lineman was employed with respondent-Board and was working at Sub Station, Kiani, District Chamba, Himachal Pradesh. While in service, on 30th of December, 1992 while replacing the Kit-Kat at the time of cleaning and maintaining of Sub Station, Kiani, District Chamba, Himachal Pradesh, petitioner suffered grievous injuries due to elctric shock. As a result of electric shock, he fell from the pole on the ground where he was admitted in the hospital in serious condition but succumbed to injuries on 31st December, 1992, when he died. He left behind five minor children and a widow. The respondent - Board has already awarded

Whether reporters of Local Papers may be allowed to see the judgment?

compassionate appointment in April, 1993 to his wife. Respondent – Board as a model employer of its own reported the matter through its Asstt. Engineer (E), Sub Station, Koti, District Chamba, Himachal Pradesh, to the Commissioner under the Workmen's Compensation Act, HPSEB, Mandi, which was registered as case No. 74 of 1996 for determination under the provisions of the H. P. Workmen's Compensation Act.

Vide orders dated 9th of August, 1996, the Commissioner has awarded compensation of Rs.92,884/-, which admittedly has been paid to the petitioner on 17.10.1996. However, the dispute in the present petition pertains to non-imposition of penalty in terms of Section 4 (A)(3) of the Workmen's Compensation Act, 1923 . Perusal of the impugned order makes it abundantly clear that the liability for compensation was not in dispute at any point of time. It is also not in dispute that the deceased employee would be disentitled for compensation on any of the grounds as mentioned in Section 3 (A) of the Act. In this view of the matter, the petitioner is fully entitled for her statutory entitlement of penalty. As already noticed hereinabove, as a model employer, it was the respondent - Board, who had of its own reported the matter for award of compensation. However, Sections 3 & 4 enjoins a duty upon the respondent - Board to have quantified the undisputed amount and deposited the same with the Commissioner in accordance with the provisions of the Act. The petitioner got her compensation only after a period of four years . The delay in adjudication is not attributable to the petitioner.

The respondent - Board is not a private employer but is a State and is expected to be a model employer. It is enjoined with the duty to implement the beneficient provisions of the Act in its true letter and spirit and to make payment of the compensation as soon as it fell due. It is undisputed that the employee had died as a result of the injuries sustained in an accident arising out of and in the course of employment, which is undisputed. Therefore,

the respondent - Board was enjoined with the duty and an obligation to pay compensation due under the Act as soon as it fell due, ***Ram Dularia Kalia*** vs. ***H.P. State Electricity Board and another*** ILR (Himachal Series) 1986 Page 842, ***Pratap Narain Singh Deo*** vs. ***Srinivas Sabata and another*** 1976(I) SCC 289. In peculiar facts and circumstances of this case, petitioner would be entitled for compensation under Section 4(A), by way of penalty to the extent of 15% of the awarded amount. The respondent – Board shall pay the aforesaid amount to the petitioner within a period of eight weeks, failing which petitioner would be further entitled for interest @ 6%. The amount shall be distributed equally amongst all the legal heirs of deceased Partap Singh.

(Sanjay Karol),
Judge.

April 2, 2007.
(rana)